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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/432,883	11/02/1999	RICHARD ALVAN RAWSON	COVD-0013	1729

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EXAMINER

NGUYEN, PHUONGCHAU BA

ART UNIT PAPER NUMBER

2665

DATE MAILED: 01/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/432,883

Applicant(s)

RAWSON ET AL.

Examiner

Phuongchau Ba Nguyen

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2665

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11-02-99 application.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other:

*Double Patenting*

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-21 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-17 of U.S. Patent No. 6,028,867. Although the conflicting claims are not identical, they are not patentably distinct from each other because the application claims 4-9 & 21 merely broaden the scope of the patented claims 4-9 & 16 by eliminating the "said IDSL technology enabling connections with a high bandwidth; wherein said high bandwidth is greater than the bandwidth enabled

by modems using switched voice lines and substituting the “wherein IDSL technology supporting a bandwidth of 128 Kbps or 144 Kbps”. However, it would have been obvious to an artisan to rephrase the IDSL bandwidth as 128 Kbps or 144 Kbps (this is a well known feature in the art) and the motivation being to generate a different set of claims with the same functions (i.e., patented claim 17 defines the high bandwidth of the IDSL equals 128 Kbps or 144 Kbps). Likewise, application claims 13-14, 17-18 & 19-20 are broaden the patented claims 12-13 & 14-15, 17. It has been held that the omission of an element and its function is an obvious expedient if the remaining elements perform the same function as before. In re Karlson, 136 USPQ 184 (CCPA). Also note Ex parte Rainu, 168 USPQ 375 (Bd. App. 1969) ; omission of a reference element whose function is not needed would have been obvious to an artisan.

*Claim Rejections – 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-4, 6, 8, 10-13, 15-17, 20-21 are rejected under 35 U.S.C.

103(a) as being unpatentable over Batruni (6,215,785).

Regarding claims 1, 10, and 15:

Batruni (6,215,785) discloses a telecommunication network for providing high speed remote access from a plurality of locations to a plurality of remote targets, wherein each of said plurality of locations is connected to a central office by a local loop, said telecommunication network (fig.5) comprising:

an access multiplexor (316) having a plurality of ISDN digital subscriber loop (IDSL) interfaces for interfacing with any of said local loops using an IDSL technology, said IDSL technology supporting a bandwidth of 128 Kbps or 144 Kbps {col.7, lines 1-4, 55 to col.8, line 3 & lines 26-27},

said access multiplexor having a plurality of another interfaces for interfacing with at least some of said local loops using another DSL technology,

wherein said another DSL technology supports a bandwidth greater than 128 Kbps or 144 Kbps {col.7, lined 1-4},

said plurality of IDSL interfaces and said plurality of another interfaces being designed to receive a plurality of packets from said plurality of locations on said plurality of local loops, each of said plurality of packets being destined to one of said plurality of remote targets (310) {col.7, lines 11-}; and

a data switch (316) coupled to said one of said plurality of remote targets by a bandwidth pipe, said data switch receiving said plurality of packets from said access multiplexor and delivering the data bits in said plurality of packets to said one of said plurality of remote targets using said bandwidth pipe irrespective of whether each of said plurality of packets is received on said IDSL interface or said another interface,

wherein said plurality of IDSL interfaces allows said telecommunication network to provide a minimum bandwidth of 128 Kbps or 144 Kbps to any of said plurality of locations, and said plurality of another interfaces enables said telecommunication network to provide higher bandwidth to some locations.

Batruni does not explicitly disclose that IDSL interface at 128 Kbps or 144 Kbps. However, it would have been obvious to an artisan to apply on of the ADSL interface in figure 5 into an IDSL interface at 128 Kbps or 144 Kbps {col.7, lines 55-64} and the motivation being for transmitting voice between touch-tone phones {col.1, line 63 to col.2, lines 13}.

Regarding claims 2, 11:

Batruni further discloses that wherein said another DSL technology comprises Asymmetric DSL (ADSL) technology, and each of said another interfaces comprises an ADSL interface {fig.5}.

Regarding claims 3, 12, and 16:

Batruni does not explicitly disclose the claimed features. Official Notice is taken that the concept and the advantages of providing each of said IDSL interfaces receive said plurality of packets as a plurality of frames, and each of said ADSL interfaces receive said plurality of packets as a plurality of cells are well known and expected in the art. It would have been obvious to have

included the IDSL packets as frames and ADSL packets as cells are known and the motivation being to distinguish between the different data types in xDSL transmission.

Regarding claims 4, 13, and 17:

Batruni further comprises two bandwidth pipes (connection from different customers at different rates) connecting said data switch 316 and said access multiplexor (316), wherein one of said two bandwidth pipes is used to transfer packets received on said ADSL interfaces and the other bandwidth pipe is used to transfer packets received on said IDSL interfaces {Batruni, fig.5 & col.8, lines 2-3}.

Regarding claims 8, 20:

Batruni further discloses that said local loops are dedicated for remote access {fig.5, at customers 310 & ADSL 528 in Batruni}.



Regarding claim 21:

Batruni further discloses that wherein said access multiplexor and said data switch are provided as a single unit {fig.5, 316, col.8, lines 26-27 & 40-44}.

Regarding claim 6:

Batruni further discloses that the telecommunication network comprises a plurality of multiplexors, a plurality of data switches, and a plurality of access multiplexors to supports a large geographical area and large number of locations {fig.4}.

5. Claims 5, 14, 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Batruni (6,215,785) in view of Laubach (6,081,533).

Regarding claims 5, 14, and 18:

Batruni does not explicitly disclose the claimed features. However, in the same field of endeavor, Laubach (6,081,533) discloses that said data switch (a controller 103, fig.1) is designed to convert said plurality of cells into new

frames {col.4, lines 60-62} and said plurality of frames into new cells {col.4, lines 49-51}, wherein the conversion allows said data switch to deliver all data destined for said one of said plurality of remote targets using said shared bandwidth pipe irrespective of whether each of said packets is received on said ADSL interfaces or said IDSL interfaces. Therefore, it would have been obvious to an artisan to apply Laubach's teaching into Batruni's system and the motivation being to provide enhanced services to xDSL users.

6. Claims 7, 9, 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Batruni (6,215,785) in view of Araujo (6,097,720).

Regarding claims 7, 9, and 19:

Batruni discloses that said data switch is located outside of said central office. And, Batruni does not explicitly disclose that said access multiplexor is located within said central office (claim 7); that said access multiplexor and said data switch are designed to transfer data from said plurality of remote targets to said plurality of locations (claim 9); and transferring data from said plurality

of remote targets to said plurality of plurality locations to provide paid high speed remote access (claim 19).

However, in the same field of endeavor, Araujo (6,097,720) discloses that said access multiplexor 20 is located within said central office 16. Therefore, it would have been obvious to an artisan to apply Araujo's teaching into Batruni's system and the motivation being to provide an efficiency data transmission for transmit multiple signals as one multiplexed signal to one or more interfaces to PSTN {col.5, lines 54-56; col.6, lines 54-57}.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phuongchau Ba Nguyen whose telephone number is 703-305-0093. The examiner can normally be reached on Monday-Friday from 10:00 a.m. to 3:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy Vu can be reached on 703-308-6602. The fax phone numbers for the organization where this application or proceeding is

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assigned are 703-872-9314 for regular communications and 703-872-9314

for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4700.

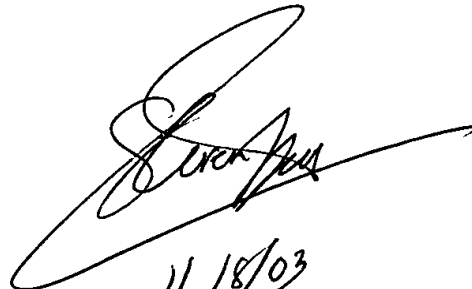
PN

Phuongchau Ba Nguyen

Examiner

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January 14, 2003

  
1/18/03